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Attorneys for Defendant and Counterclaimant
BENJAMIN COOK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

TOPFIRE LIMITED, A FOREIGN
COMPANY; HK MIUSON
INTERNATIONAL CO., LIMITED, a
foreign company;
JIANGGONGXIUSHENZHENGUOJI-
MAOYIYOUXIANGONGSI, a foreign
company; and
SHENZHENSHILINGBINQIPEI-
YOUXIANGONGSI, a foreign
company.

Plaintiffs/Counter-
defendants,

v.

BENJAMIN COOK, an individual, and
DOES 1 through 10, inclusive,

Defendant/Counterclaimant.

And Related Counterclaim

Case No.: 2:23-cv-02503-DAD-JDP
Hon. Dale A. Drozd

**DEFENDANT/COUNTERCLAIMANT
BENJAMIN COOK'S ANSWER TO
AMENDED COMPLAINT**

JURY TRIAL DEMANDED

1 Defendant/Counterclaimant Benjamin Cook (“Defendant” or
2 “Defendant/Counterclaimant”), by counsel, files this Answer to the Amended Complaint
3 filed by Plaintiffs TOPFIRE LIMITED, a foreign company (“Topfire”); HK MIUSON
4 INTERNATIONAL CO., LIMITED, a foreign company (“MIUSON”);
5 JIANGGONGXIUSHEN-ZHENGUOJIMAOYIYOUXIANGONGSI, a foreign company
6 (“Mastershow”); and SHENZHENSHILINGBINQIPEIYOUXIANGONGSI, a foreign
7 company (“Autobasis”) (Topfire, HK Miuson, JiangGong, and Shenzhen are collectively
8 referred to herein as (“Plaintiffs” or “Plaintiffs/Counter-defendants”), and responds to
9 each paragraph set forth therein as follows:

10 **PARAGRAPH NO. 1:** Defendant/Counterclaimant admits that Plaintiffs have
11 brought an action for declaratory judgment of non-infringement and invalidity under the
12 patent laws. Defendant/Counterclaimant denies that Plaintiffs are entitled to any relief.

13 **PARAGRAPH NO. 2:** Defendant/Counterclaimant admits this court has original
14 subject matter jurisdiction.

15 **PARAGRAPH NO. 3:** Defendant/Counterclaimant admits that, by virtue of its
16 counterclaim, the amount in controversy exceeds the sum of \$75,000.

17 **PARAGRAPH NO. 4:** For this action only, Defendant/Counterclaimant admits
18 the Court has personal jurisdiction. Defendant admits that he conducts business in this
19 Judicial District.

20 **PARAGRAPH NO. 5:** Defendant/Counterclaimant admits that venue is proper.

21 **PARAGRAPH NO. 6:** Defendant/Counterclaimant lacks information sufficient
22 to admit or deny the allegations in this paragraph and therefore denies the same.

23 **PARAGRAPH NO. 7:** Defendant/Counterclaimant lacks information sufficient
24 to admit or deny the allegations in this paragraph and therefore denies the same.

25 **PARAGRAPH NO. 8:** Defendant/Counterclaimant lacks information sufficient
26 to admit or deny the allegations in this paragraph and therefore denies the same.

27 **PARAGRAPH NO. 9:** Defendant/Counterclaimant lacks information sufficient
28 to admit or deny the allegations in this paragraph and therefore denies the same.

1 **PARAGRAPH NO. 10:** Defendant/Counterclaimant admits he is located in
2 Placer County in the State of California

3 **PARAGRAPH NO. 11:** Defendant/Counterclaimant admits he sells cupholder
4 accessories, which can be used in motor vehicles and that he sells goods to customers
5 located in California and elsewhere in the United States.

6 **PARAGRAPH NO. 12:** Defendant/Counterclaimant admits that he conducts
7 business in the United States and within the State of California.

8 **PARAGRAPH NO. 13:** Defendant/Counterclaimant lacks information sufficient
9 to admit or deny whether Plaintiffs will seek leave of court and therefore denies the same.
10 Defendant/Counterclaimant denies he remaining allegations of this Paragraph.

11 **PARAGRAPH NO. 14:** Defendant/Counterclaimant admits the allegations of
12 this paragraph.

13 **PARAGRAPH NO. 15:** Defendant/Counterclaimant admits the allegations of
14 this paragraph.

15 **PARAGRAPH NO. 16:** Defendant/Counterclaimant admits the allegations of
16 this paragraph.

17 **PARAGRAPH NO. 17:** Defendant/Counterclaimant admits the allegations of
18 this paragraph.

19 **PARAGRAPH NO. 18:** Defendant/Counterclaimant admits the allegations of
20 this paragraph.

21 **PARAGRAPH NO. 19:** This paragraph defines a term used in the Amended
22 Complaint and therefore requires response. To the extent a response is required,
23 Defendant/Counterclaimant admits that Plaintiffs use the definition identified in this
24 paragraph in the Amended Complaint.

25 **PARAGRAPH NO. 20:** Defendant/Counterclaimant admits that he competes
26 with Plaintiffs for the sale of cupholder accessories.

27 **PARAGRAPH NO. 21:** Defendant/Counterclaimant admits the allegations of
28 this paragraph.

1 **PARAGRAPH NO. 22:** Defendant/Counterclaimant lacks information sufficient
2 to admit or deny the allegations in this paragraph and therefore denies the same.

3 **PARAGRAPH NO. 23:** Defendant/Counterclaimant lacks information sufficient
4 to admit or deny the allegations in this paragraph and therefore denies the same.

5 **PARAGRAPH NO. 24:** Defendant/Counterclaimant admits the allegations
6 contained in this paragraph.

7 **PARAGRAPH NO. 25:** Defendant/Counterclaimant lacks information sufficient
8 to admit or deny the allegations in this paragraph and therefore denies the same.

9 **PARAGRAPH NO. 26:** Defendant/Counterclaimant lacks information sufficient
10 to admit or deny the allegations in this paragraph and therefore denies the same.

11 **PARAGRAPH NO. 27:** Defendant/Counterclaimant lacks information sufficient
12 to admit or deny the allegations in this paragraph and therefore denies the same.

13 **PARAGRAPH NO. 28:** Defendant/Counterclaimant denies the allegations in
14 Paragraph 28 of the Amended Complaint.

15 **PARAGRAPH NO. 29:** Defendant/Counterclaimant admits that this paragraph
16 identifies a portion of the claims of the '539 Patent.

17 **PARAGRAPH NO. 30:** Defendant/Counterclaimant denies the allegations in this
18 paragraph.

19 **PARAGRAPH NO. 31:** Defendant/Counterclaimant admits that a portion of the
20 claims are quoted in this paragraph. Defendant/Counterclaimant lacks knowledge or
21 information sufficient to admit or deny whether the tabs are independently manufactured
22 and therefore denies the same. Defendant/Counterclaimant denies the remaining
23 allegations in this paragraph.

24 **PARAGRAPH NO. 32:** Defendant/Counterclaimant denies the allegations in this
25 paragraph.

26 **PARAGRAPH NO. 33:** Defendant/Counterclaimant denies the allegations in this
27 paragraph.
28

1 **PARAGRAPH NO. 34:** Defendant/Counterclaimant admits that Plaintiffs have
2 included a chart in this paragraph that purports to be a “non-infringement chart” and
3 identifies certain claims and drawings of the ‘539 Patent. Defendant/Counterclaimant
4 denies the remaining allegations in this paragraph.

5 **PARAGRAPH NO. 35:** Defendant/Counterclaimant denies the allegations in this
6 paragraph.

7 **PARAGRAPH NO. 36:** Defendant/Counterclaimant admits the ‘539 Patent has a
8 filing date of April 21, 2023 and claims priority to provisional application no.
9 63/146,581, filed on February 6, 2021. Defendant/Counterclaimant denies the remaining
10 allegations in this paragraph.

11 **PARAGRAPH NO. 37:** Defendant/Counterclaimant denies the allegations in this
12 paragraph.

13 **PARAGRAPH NO. 38:** Defendant/Counterclaimant denies the allegations in this
14 paragraph.

15 **PARAGRAPH NO. 39:** Defendant/Counterclaimant admits that the Plaintiffs
16 have included a chart in this paragraph that purports to be an “invalidity chart” and
17 identifies certain claims and drawings of the ‘539 Patent. Defendant/Counterclaimant
18 denies the remaining allegations of this paragraph.

19 **PARAGRAPH NO. 40:** Defendant/Counterclaimant hereby incorporates by
20 reference the allegations set forth in paragraphs 1-39 above.

21 **PARAGRAPH NO. 41:** Defendant/Counterclaimant denies the allegations in this
22 paragraph.

23 **PARAGRAPH NO. 42:** Defendant/Counterclaimant denies the allegations in this
24 paragraph.

25 **PARAGRAPH NO. 43:** Defendant/Counterclaimant denies the allegations in this
26 paragraph.

1 **PARAGRAPH NO. 44:** Defendant/Counterclaimant lacks knowledge or
2 information sufficient to form a belief about the allegations in this paragraph and
3 therefore denies the same.

4 **PARAGRAPH NO. 45:** Defendant/Counterclaimant denies the allegations in this
5 paragraph.

6 **PARAGRAPH NO. 46:** Defendant/Counterclaimant hereby incorporates by
7 reference the allegations set forth in paragraphs 1-45 above.

8 **PARAGRAPH NO. 47:** Defendant/Counterclaimant denies the allegations in this
9 paragraph.

10 **PARAGRAPH NO. 48:** Defendant/Counterclaimant denies the allegations in this
11 paragraph.

12 **PARAGRAPH NO. 49:** Defendant/Counterclaimant denies the allegations in this
13 paragraph.

14 **PARAGRAPH NO. 50:** Defendant/Counterclaimant denies the allegations in this
15 paragraph.

16 **PARAGRAPH NO. 51:** Defendant/Counterclaimant denies the allegations in this
17 paragraph.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Defendant/Counterclaimant prays for judgment against
20 Plaintiffs, as follows:

- 21 1. That judgment be awarded in favor of Defendant/Counterclaimant and against
22 Plaintiffs, and that the Amended Complaint be dismissed with prejudice;
23 2. That Plaintiffs take nothing by their Amended Complaint;
24 3. That Defendant/Counterclaimant be awarded reasonable attorneys' fees as
25 may be determined by this Court; and
26 4. For such other and further relief as the Court shall deem just and proper.
27
28

AFFIRMATIVE DEFENSES

Pursuant to Fed. R. Civ. P. 8(c) and 12(b), Defendant/Counterclaimant asserts the following defenses to the Amended Complaint. Defendant/Counterclaimant reserves the right to amend its answer to add defenses as they become known over the course of discovery in this case. Assertion of a defense is not an admission that Defendant/Counterclaimant bears the burden of proving the matter asserted.

FIRST AFFIRMATIVE DEFENSE (Failure To State A Claim)

Plaintiffs fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE (Equitable Defenses)

Plaintiffs' claims are barred in whole or in part under the principles of equity, including without limitation, laches, waiver, estoppel and/or consent.

THIRD AFFIRMATIVE DEFENSE (Limitation of Liabilities)

Plaintiffs' claimed damages are limited or barred by the absence of cognizable damages and mitigating circumstances.

FOURTH AFFIRMATIVE DEFENSE (Infringement)

Plaintiffs have infringed and continue to infringe the '539 Patent by making, using, offering for sale, and/or selling the "Cup Expander Products" in the United States, and/or importing into the United States the "Cup Expander Products" that embody or use the inventions claimed in the '539 Patent.

FIFTH AFFIRMATIVE DEFENSE (Validity)

The '539 Patent is not invalid.

SIXTH AFFIRMATIVE DEFENSE (Enforceability)

The '539 Patent is not unenforceable.

DATED: January 4, 2024

SMITH GAMBRELL & RUSSELL LLP

By: /s/ Gregg A. Rapoport

John P. Pennington

Gregg A. Rapoport

Attorneys for Defendant/Counterclaimant

BENJAMIN COOK

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Defendant/Counterclaimant hereby demands a trial by jury on all issues triable to a jury.

DATED: January 4, 2024

SMITH GAMBRELL & RUSSELL LLP

By: /s/ Gregg A. Rapoport

John P. Pennington

Gregg A. Rapoport

Attorneys for Defendant/Counterclaimant

BENJAMIN COOK

CERTIFICATE OF SERVICE

I, Gregg A. Rapoport, am over the age of 18 years and am not a party to this action. Upon my oath, I hereby state that on the date set forth below, I caused the foregoing document to be filed electronically, and notice hereof will automatically be sent to all counsel of record that participate in electronic filing, by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. In addition, if any attorneys are not participating in electronic filing, they are identified below and have been mailed, via first-class postage, notice hereof on the date this document is being electronically filed.

Dated: January 4, 2024

By: s/ Gregg A. Rapoport
Gregg A. Rapoport